

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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EARL J. ROBINS,

Plaintiff,

14-CV-174(LJV)(LGF)  
ORDER

v.

CAROLYN W. COLVIN,  
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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On July 23, 2014, the Court (Hon. Richard J. Arcara) referred this case to United States Magistrate Judge Leslie G. Foschio for all proceedings pursuant to 28 U.S.C. § 636(b)(1)(B). Docket Item 9. On November 24, 2015, this case was reassigned from Judge Arcara to the undersigned. Docket Item 14.

On July 22, 2014, the plaintiff moved for judgment on the pleadings, or, in the alternative, to remand the matter for further development of the record. Docket Item 8. On October 22, 2014, the defendant responded to the plaintiff's motion and moved for judgment on the pleadings. Docket Item 12. And on November 7, 2014, the plaintiff filed a notice advising Judge Foschio that no reply brief would be filed. Docket Item 13.

On September 8, 2016, Judge Foschio issued a Report and Recommendation finding that the defendant's motion should be granted and that the plaintiff's motion should be denied. Docket Item 15. The parties did not object to the Report and Recommendation, and the time to do so now has expired. See 28 U.S.C. 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify, in whole or in part, the findings or recommendation of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Foschio's Report and Recommendation as well as the parties' submissions. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to deny the plaintiff's motion and grant the defendant's motion for judgment on the pleadings.

For the reasons stated above and in the Report and Recommendation, the plaintiff's motion for judgment on the pleadings or, in the alternative, to remand for further proceedings (Docket Item 8) is DENIED; the defendant's motion for judgment on the pleadings (Docket Item 12) is GRANTED; the complaint (Docket Item 1) is dismissed; and the Clerk of the Court is instructed to close the file.

SO ORDERED.

Dated: November 22, 2016  
Buffalo, New York

**s/Lawrence J. Vilardo**  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE